

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

CIVIL MINUTES – GENERAL

Case No. SACV 11-01301-CJC(ANx)

Date: February 22, 2012

Title: LUIZ VELEZ v. AFFILIATED FUNDING CORPORATION, ET AL.

PRESENT:

HONORABLE CORMAC J. CARNEY, UNITED STATES DISTRICT JUDGE

Michelle Urie
Deputy Clerk

N/A
Court Reporter

ATTORNEYS PRESENT FOR PLAINTIFF: ATTORNEYS PRESENT FOR DEFENDANT:

None Present

None Present

**PROCEEDINGS: (IN CHAMBERS) ORDER REQUESTING ADDITIONAL
BRIEFING REGARDING DEFENDANTS' MOTION FOR SUMMARY
JUDGMENT [filed 1/30/12]**

Plaintiff Luis Velez brought this action against Defendants Affiliated Funding Corporation, Deutsche Bank National Trust Company ("Deutsche Bank"), as trustee for the Greenpoint Mortgage Funding Trust 2006—OH1, mortgage pass-through certificates, series 2006-OH1, Litton Loan Servicing, L.P. ("Litton"), Ocwen Loan Servicing, LLC ("Ocwen"), and fictitious defendants. Mr. Velez's First Amended Complaint asserts claims for declaratory relief under federal law, breach of contract, breach of the implied covenant of good faith and fair dealing, and violations of 15 U.S.C. §§ 1692, 1641, 12 U.S.C. § 2605, and of California's Unfair Competition Law, Cal. Bus. & Prof. Code § 17200. Defendants Deutsche Bank, Ocwen, and Litton moved to dismiss Mr. Velez's First Amended Complaint for failure to state a claim pursuant to Federal Rule of Civil Procedure 12(b)(6), which the Court converted into a motion for summary judgment.

A central issue of many of Mr. Velez's claims is whether Deutsche Bank has acquired an interest in his loan. Deutsche Bank has asserted that it possesses the note, endorsed in blank. However, the present record does not adequately address whether Deutsche Bank is the holder in due course of the note. Specifically, the record fails to adequately address how to determine if a note is endorsed in blank, and whether the proffered Adjustable Rate Note is in fact endorsed in blank. The Court requires additional briefing on this issue. Accordingly, Defendants are directed to file their

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supplemental briefing on or before March 5, 2012. Mr. Velez shall respond on or before March 12, 2012. The hearing on Defendants' motion for summary judgment shall be continued from February 27, 2012 to March 19, 2012 at 1:30 p.m.

jsk

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